

TOWN OF EAST LONGMEADOW
SPECIAL TOWN MEETING
September 26, 2011

In accordance with the Warrant of the Selectmen, the Special Town Meeting was held in the Auditorium of the East Longmeadow High School on Monday evening, Sept 26, 2011. Town Moderator Mr. James Sheils, called the meeting to order at 7:09PM; there being 134 registered voters present. Mr. Sheils offered the opening prayer and led the assembly in the Pledge of Allegiance.

Mr. Sheils then proceeded with some housekeeping issues: Location of fire exits, color of tags for voter and non-voters, and warrant articles that can be moved within the warrant if approved by a 2/3rd majority vote.

The Town Moderator is now allowed to determine, without a count, based on the by-law change adopted in May 2006, whether a 2/3rd's quorum Town vote has been obtained, subject to the right of challenge by seven (7) voters as authorized the Town By-Law, Section 2.030 Chapter 13. If seven (7) or more voters challenge the vote, a teller count shall be required.

Article 1

Board of Selectmen – Transfer of Funds

No Motion Made
No Action Taken

Article 2

Board of Selectmen – Payment of Prior Years Bills

Motioned that the Town appropriate and transfer \$677.30 (six hundred and seventy-seven dollars and thirty cents) from the Fiscal Year 2012 General Fund Reserve Account #01-132 to pay the following bill incurred in a prior fiscal year:

Sullivan, Hayes & Quinn

Attorneys at Law

\$677.30

Appropriations Committee Recommendation: Recommended

A 9/10's vote is required.

Passed Unanimously as Declared by Town Moderator.

Article 3

Board of Selectmen – Fund Fire Department Personal Services Account

Motioned that the Town appropriate and transfer \$5,000.00 from the Fiscal Year 2012 General Fund Reserve Account #01-132, or any other sources that may be available in the Fiscal Year 2012 budget, to the Fire Department personal services account.

Appropriations Committee Recommendation: Not Recommended

Motion Passed Majority as Declared by Town Moderator.

Article 4

Board of Selectmen – Fund Collective Bargaining

Motioned that the Town appropriate and transfer \$57,250 from the Fiscal Year 2012 General Fund Reserve Account #01-132, or any other sources that may be available in the Fiscal Year 2012 budget, to the following:

\$26,000 to fund the contractual settlement with the Police union, said funds to be distributed to the personal services account of the Police Department.

\$26,000 in total to fund the contractual settlement with the Town Employees' union, said funds to be distributed to the personal services accounts of various departments.

\$5,250 to fund the contractual settlement with the Fire union, said funds to be distributed to the personal services account of the Fire Department

Appropriations Committee Recommendation: Recommended
Motion Passed Majority as Declared by Town Moderator.

Article 5

Board of Selectmen – Fund Veterans' Services

Motioned that the Town appropriate and transfer \$36,000 from the Fiscal Year 2012 General Fund Reserve Account #01-132, or any other sources that may be available in the Fiscal Year 2012 budget, to the Veterans' Services personal services account

Appropriations Committee Recommendation: Not Recommended
Motion Failed as Declared by Town Moderator.

Article 6

Board of Selectmen – Fund Pine Knoll renovation

No Motion Made
No Action Taken

Article 7

Board of Selectmen – Fund Bond Anticipation Note Pay-down

Motioned that the Town appropriate from the Community Preservation Unrestricted Fund account the amount of \$500,000 for the purpose of paying down the Bond Anticipation Note for the Brown and Koch properties, as recommended by the Community Preservation Committee.

Community Preservation Committee Recommendation: Recommended
Appropriations Committee Recommendation: Recommended
Motion Passed Unanimously as Declared by Town Moderator.

Article 8

Board of Selectmen – Fund demolition of buildings on Brown-Koch Property

Motioned that the Town appropriate from the Community Preservation Open Space account the amount of \$60,000 for the purpose of funding the contract for demolition and disposal services for the buildings on the Brown and Koch properties, as recommended by the Community Preservation Committee.

Community Preservation Committee Recommendation: Recommended

Appropriations Committee Recommendation: Recommended

Motion Passed Majority as Declared by Town Moderator.

Article 9

Board of Assessors – Accept the Provision of Chapter 653 Section 40 of the Acts of 1989

Motioned that the Town accept the provisions of Chapter 653 Section 40 of the Acts of 1989 to be effective for the Fiscal Year beginning July 1, 2012 and thereafter.

Motion Passed Majority as Declared by Town Moderator.

Article 10

Board of Public Works – Amend General By-Laws – Add Sec. 8.150 – Maintenance of Stormwater Basins

Motioned that the Town amend the General By-laws of the Town of East Longmeadow by adding a new Section 8.150 set forth as follows:

SECTION 8.150 MAINTENANCE OF STORMWATER BASINS

Section 8.150.010: The Town over the years has, acting through its Planning Board established numerous detention and retention basins for the protection of the property and health and safety of its residents. The failure to maintain or repair said basins is a danger to the property and health and safety of residents.

Section 8.150.020: Maintenance, including repair and cleaning of said basins, unless a different entity is designated by a deed or other document approved by the Planning Board and recorded in the Hampden County Registry of Deeds, is the responsibility of the owner(s) of the land upon which the basin is located.

Section 8.150.030: Employees of the Department of Public Works, or its designees, may enter the property where a basin is located to inspect the basin. Employees shall provide evidence of their employment if requested by the owners.

Article 10 continued

Section 8.150.035: The Board of Public Works may adopt rules and regulations for the proper maintenance of the retention and/or detention basins.

Section 8.150.040: Failure of an owner to maintain the basin in conformity with rules and regulations adopted by the Board of Public Works for the proper operation of detention and retention basins, after thirty (30) days written notice to the owner of the problem(s), shall be corrected by the Department of Public Works or its designee. The Department of Public Works or its designee may enter the parcel where the basin is located and any other property reasonably required to access the basin with equipment, personnel and materials to correct the violation and bring the basin into conformity with the rules and regulations.

Section 8.150.050: The cost to bring the detention or retention basin into conformity with the rules and regulations shall be assessed against the owner(s) of the detention or retention basin parcel and collection of said costs, if not paid within (30) days from the date of the bill, shall be recovered by placing a lien, pursuant to Municipal Charges Lien By-Law, against all property owned by the person(s) responsible for its maintenance and repair.

Section 8.150.060: Where a basin's repair and maintenance is to be done by a homeowners' association or similar entity, whether or not the association is the owner of the lot containing the basin, said costs, including interest, shall be charged equally to each of the owners of the lots comprising the make-up of the membership of the association. The fact that the basin may belong to the Town as a result of a tax taking shall not relieve the homeowners' association of its obligations under this By-law for future care and maintenance of such a basin.

Section 8.150.070: A person(s) disputing responsibility for the maintenance and repair of a detention or retention basin may request a hearing before the Board of Public Works by submitting a written request to the Board of Public Works within fourteen (14) days of the receipt of the notice of violation. The Board shall schedule a hearing on such a request within thirty (30) days of its receipt of the request. No action shall be undertaken by the Board of Public Works to bring the basin into compliance with its rules and regulations until it has issued a decision in connection with said appeal, unless the Board of Public Works declares that public health or welfare requires immediate repair or maintenance.

Motion Passed Majority as Declared by Town Moderator.

Article 11

Board of Public Works – Amend General By-Laws–Sec. 8.070–Dumping into Storm Drains

Motioned that the Town amend the General By-Laws of the Town of East Longmeadow, by deleting Section 8.070 and replacing it as set forth as follows:

Section 8.070 STORMWATER MANAGEMENT

8.070.010 Definitions

The following definitions describe the meaning of the terms used in this by-law:

Adverse Impact: Harmful effect on waters or wetlands, including their quality, quantity, surface area, species composition, aesthetics or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

Best Management Practices (BMP): Structural or biological devices that temporarily store or treat stormwater runoff to reduce flooding, remove pollutants, and provide other amenities. They can also be nonstructural practices that reduce pollutants at their source. Examples of BMP's are described in the Massachusetts Department of Environmental Protection's (MassDEP) stormwater design manual: Stormwater Management Handbook, Volume 2: Chapter 2: Structural BMP Specifications for the Massachusetts Stormwater Handbook (February 2008, MassDEP, as updated or amended).

Board of Public Works: The permitting and enforcement agency.

Construction Activity: Disturbance of the ground by removal of surface cover, grading, excavation, clearing or filling.

Detention: The temporary storage of storm runoff in a BMP, which is used to control the "peak discharge" rates, and which provides gravity settling of pollutants.

Discharge of Pollutants: The addition of a pollutant or combination of pollutants into a Municipal Separate Storm Sewer System (MS4) or into the waters of the Commonwealth from any source.

Groundwater: Water beneath the surface of the ground.

Illicit Discharge: Direct or indirect non-stormwater discharge to an MS4, except as specifically exempted in Illicit Stormwater Section 8.07.100. (D). The term does not include a discharge in compliance with a National Pollutant Discharge and Elimination System (NPDES) stormwater discharge permit or resulting from fire fighting or other municipal activities, not including Construction Activities.

Article 11 continued

Illicit Connection: Surface or subsurface drain or conveyance, which allows an illicit discharge into an MS4. Illicit connections include conveyances which allow a non-stormwater discharge to an MS4 including sewage, process wastewater or wash water and connections from indoor drains, sinks or toilets, regardless of whether said connection was previously allowed, permitted or approved before the effective date of this by-law.

Infiltration: The downward movement of water from the surface to the subsoil.

Municipal Separate Storm Sewer System (MS4): The system of conveyances designed or used for collecting or conveying stormwater, including road or street with a drainage system, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, drain channel, reservoir, and other drainage owned or operated by the Town of East Longmeadow.

National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit: A permit issued by the United States Environmental Protection Agency or jointly with the state that authorizes the discharge of pollutants to waters of the United States.

Non-Stormwater Discharges: Discharge to the MS4 not composed entirely of stormwater.

Peak Discharge: The maximum rate of flow during a storm.

Permeable soils: Soil materials with a sufficiently rapid infiltration rate so as to greatly reduce or eliminate surface and stormwater runoff.

Person: An individual, group of individuals, association, partnership, corporation, company, business, organization, trust, estate, administrative agency, public or quasi-public entity, the commonwealth or political subdivision thereof or the federal government, to the extent permitted by law and an officer, employee or agent of such person.

Pollutant: Any element or property of sewage, agricultural, industrial, commercial or residential waste, runoff, leachate, heated effluent, or other matter whether originating at a point or nonpoint source, that is introduced into the MS4 or waters of the Commonwealth. Pollutants shall include, but not be limited to: dredged spoil, solid waste, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, hot fluids, wrecked or discarded equipment, rock, sand, and industrial, municipal, agricultural and residential waste discharged into water.

Retention: The holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

Article 11 continued

Runoff: Rainfall, snowmelt, or irrigation water flowing over the ground surface.

Stormwater: Runoff from precipitation or snowmelt.

Stormwater Management Facility: A structural stormwater management measure, including stormwater management basins and filtration or other treatment systems.

Uncontaminated Water: Water containing no pollutants.

Uncontaminated Groundwater: Groundwater containing no pollutants.

Waters of the Commonwealth: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and groundwater.

Wastewater: Sanitary waste or sludge and water used during manufacturing, cleaning or processing of materials that enters the MS4 or waters of the Commonwealth.

8.070.020 Purpose

(A) The purpose of this section is to better manage land development in order to protect, maintain, and enhance the public health, safety, and general welfare of the citizens of East Longmeadow by establishing minimum requirements and procedures to control the adverse impacts associated with stormwater runoff.

8.070.030 Authority

The Board of Public Works or its designee shall administer, enforce and implement this section. The Board of Public Works shall promulgate rules, regulations and a permitting process to effectuate the purposes of this section. Failure by the Board of Public Works to promulgate such rules and regulations shall not have the effect of suspending or invalidating this section.

8.070.040 Applicability

(A) *Applicability.* This by-law shall apply to activities that result in disturbance or one or more acres (43,560+ square feet) of land. In determining whether an activity is subject to jurisdiction under this by-law, the Board of Public Works or its designee and applicant shall consider the entirety of the project, including any likely future expansion, and not separate phases or segments thereof. The applicant shall not phase or segment a project to evade, defer or curtail review under this by-law. Except as authorized by the Board of Public Works or its designee, no person shall perform an activity that results in disturbance of one or more acres of land.

Article 11 continued

(B) Exemptions. The following uses and activities are exempt from compliance with this by-law:

1. Stormwater discharges resulting from land disturbance activities that are subject to an Order of Conditions issued by the Conservation Commission under the Wetlands Protection Act;
2. An agricultural activity which is in compliance with an approved soil conservation plan prepared or approved by the United States Natural Resource Conservation Service;
3. Logging which is in compliance with a timber management plan approved under the Forest Cutting Practices Act by Massachusetts Department of Conservation and Recreation;
4. Activities that do not disturb more than one acre (43,560 square feet) of land;
5. Construction of municipal utilities;
6. In-kind repairs to a stormwater treatment system deemed necessary by the East Longmeadow Board of Public Works; and
7. An emergency activity that is immediately necessary for the protection of life, property or the environment, as determined by the Board of Public Works.

(C) Waivers. The Board of Public Works may waive strict compliance with any requirement of this by-law or the rules and regulations promulgated hereunder upon written findings of the fact setting forth the basis for the waiver by the Board of Public Works.

8.070.050 Permit Requirements

(A) Permit required. Prior to the approval of a Special Permit, Site Plan or waiver thereof or Building Permit for an activity regulated hereunder, a Stormwater Management Permit must be approved by the Board of Public Works or its designee.

(B) Permit fees. For Stormwater Management Permit fee shall be based on the amount of land to be disturbed at the site and the fee structure shall be established by the Board of Public Works by regulation. If, in the judgment of the Board of Public Works, or its designee consulting services are necessary or appropriate, the applicant shall, prior to a determination on an application, deposit with the Town, an amount determined by the Board of Public Works or its designee to be sufficient to cover the full costs of such services. All such consultants shall be selected by the Board of Public Works or its designee and paid out of said deposit. The Town will reimburse the applicant for any credits remaining after a consultant has been paid within thirty (30) days of said payment. In the event the deposit is insufficient to cover consultant services, the outstanding balance is to be paid by the applicant within 30 days of receipt of invoice for the outstanding balance.

Article 11 continued

(C) Stormwater and erosion control plan. The application for a stormwater management permit shall consist of submittal of a stormwater management and erosion control plan prepared in accordance with the rules and regulations.

(D) Stormwater Management Performance Standards. Projects that require a permit under this by-law must meet the Massachusetts Stormwater Management Standards.

8.070.060 Performance Bond

The Board of Public Works shall require from the developer a cash bond prior to the submittal of a building permit application for the construction of a development requiring a stormwater management facility. The amount of the security shall not be less than the total estimated construction cost of the stormwater management facility including the applicable prevailing wage cost for the project. The bond shall be forfeited for failure to complete work specified in the approved stormwater management permit, compliance with all of the provisions of this by-law and other applicable laws and rules and regulations, and any time limitations. No portion of the bond shall be released without an inspection of the work by the Board of Public Works or its designee. The bond shall not be fully released without submission to the Board of Public Works or its designee of acceptable "as-built" plans and certification of completion that the stormwater management facilities are in compliance with the permit and plans approved thereunder.

8.070.070 Certificate of Completion

The Board of Public Works or its designee shall issue a letter certifying completion upon receipt and approval of the final inspection reports, final plans, including evidence of recording of permanent easements, and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this by-law.

8.070.080 Illicit Discharges Purpose

The purpose of this portion of the by-law is to regulate illicit connections and discharges to the MS4, to protect East Longmeadow's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment, by:

- (a) preventing pollutants from entering East Longmeadow's MS4;
- (b) prohibiting illicit connections and unauthorized discharges to the MS4;
- (c) requiring the removal of all such illicit connections;
- (d) establishing the legal authority to ensure compliance with the provision of this by-law through inspection, monitoring, and enforcement.

8.070.090 Illicit Discharges Applicability

This section shall apply to flows entering the MS4

Article 11 continued***8.070.100 Illicit Discharges Prohibited Activities***

(A) *Illicit discharges.* No person shall dump, discharge, cause or allow to be discharged a pollutant or non-stormwater discharge into MS4s or into waters of the Commonwealth.

(B) *Illicit connections.* No person shall construct, use, allow, maintain or continue an illicit connection to an MS4, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.

(C) *Obstruction of storm drain system.* No person shall obstruct or interfere with the normal flow of stormwater into or out of an MS4 without prior approval from the Board of Public Works or its designee.

(D) *Exemptions.* This section shall not apply to the following non-stormwater discharges or flows provided that the source is not a significant contributor of a pollutant to MS4s:

1. waterline flushing;
2. flow from potable water sources;
3. springs
4. natural flow from riparian habitats and wetlands;
5. diverted stream flow;
6. rising groundwater;
7. uncontaminated groundwater infiltrating (entering the MS4 from the ground through such means as defective pipes, pipe joints, connections, or manholes), or uncontaminated pumped groundwater;
8. water from exterior foundation drains, footing drains (not including active groundwater dewatering systems), sump pumps, or air conditioning condensation;
9. discharge from landscape irrigation or lawn watering;
10. water from individual residential car washing;
11. discharge from dechlorinated swimming pool water (less than one ppm chlorine) provided the water is allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance;
12. discharge from street sweeping;
13. discharge or flow resulting from ice and snow control operations;
14. dye testing, provided verbal notification is given to the Board of Public Works or its designee prior to the time of the test;
15. discharge or flow resulting from fire fighting activities;
16. non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, provided that the discharge is in full compliance with the requirements of the permit, waiver, or order and applicable laws and regulations;
17. discharge for which advanced written approval is received from the Board of Public Works or its designee as necessary to protect public health, safety, welfare, and the environment; and

Article 11 continued

18. incidental discharge (e.g., dust, drops of fluids) from maintenance and normal activities related to allowed uses, which results in de minimus levels of pollution entering the MS4 or Waters of the Commonwealth in East Longmeadow. This by-law does not supersede any other local, state or federal requirements.

8.070.110 Notification of Spills

Notwithstanding any other requirements of local, state or federal law, as soon as a person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of a known or suspected release of materials at that facility operation which is resulting or may result in illicit discharge of pollutants that person shall take the necessary steps to ensure containment, and cleanup of the release. In the event of a release enters the MS4 or Waters of the Commonwealth in East Longmeadow, the person shall immediately notify the East Longmeadow Board of Public Works. Written confirmation of telephone, facsimile or in-person notifications shall be provided to the Board of Public Works or its designee within three business days thereafter. If the discharge of prohibited materials is from a commercial or industrial facility, the facility owner or operator of the facility shall retain on-site a written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained by said facility owner or operator for at least three years.

8.070.120 Enforcement

Any officer, employee, person or entity observing or having actual knowledge of a violation of this by-law or a rule or regulation adopted hereunder that he is responsible for enforcing may, as an alternative to seeking a criminal penalty for violation of this by-law, give the offender a ticket in a form in compliance with the requirements of and in the manner established in G.L. c. 40 §21D and Section 8.130 of the East Longmeadow General By-laws. The Board of Public Works shall designate the person or persons responsible for enforcement.

The penalty for each violation of this stormwater management portion of the by-law and the rules and regulations adopted hereunder shall be \$200.00 and each day or part thereof shall constitute a separate violation.

The Board of Public Works, in addition to issuing said tickets, may enforce the provisions of this by-law by injunctive relief if it determines that the health, safety or welfare of any resident or member of the public or that the well being of the community is or will be endangered by the violation(s).

Any permit issued pursuant to this by-law shall contain language requiring the applicant to pay any and all costs, including attorney fees and expert witness fees, incurred by the town in seeking court action regarding the enforcement of this by-law and the rules and regulations adopted hereunder.

Article 11 continued

The prior provisions of this by-law notwithstanding, the Board of Public Works or its designee may enter onto a person's land to inspect any work performed under a permit issued pursuant to this by-law. The Board of Public Works may also enter any property to determine if such property is in violation of this by-law or rules and regulations if it has a good faith basis to believe an activity requiring a permit is being performed on the property without such a permit.

The Board of Public Works may, for cause shown, suspend or terminate a person's connection to the MS4 and any permit issued pursuant to this by-law.

Notice of the intent to suspend or terminate a person's connection to the MS4 or a permit shall be given in writing to the owner of the property and the permit holder, if different, by delivering, to the owner to the address listed for taxation purposes in the Assessor's Office, and the permit holder at the address listed in the application; a copy of the notice of hearing shall be delivered at least ten (10) business days before said hearing date and shall, in addition, be mailed by 1st class mail, postage prepaid at least fourteen (14) days before said hearing.

The notice shall contain the:

1. Name and address of the owner of the property;
2. The name and address of the permit holder if different than the owner;
3. The action contemplated;
4. Statement of violations believed to exist; and
5. A statement that the owner and permit holder may present evidence regarding alleged violations.

If the Board of Public Works or its designee determines in writing that the public health, safety or welfare requires immediate action, it may suspend or terminate MS4 service and any permit immediately. However, in such a case, notice as set forth above, shall be delivered and mailed to the owner and permit holder, if different, informing them that they have fifteen (15) days from the date of the suspension or termination to appeal said action of the Board of Public Works.

8.070.130 Transitional Provisions

Property owners shall comply with the illicit discharges sections of this by-law, but such property owners shall in no case have more than six months from the effective date of the by-law to comply with its provisions, unless good cause is shown for the failure to comply with the by-law during that period.

Motion Passed Majority as Declared by Town Moderator.

Article 12

Planning Board – In fee Simple Street Taking – Autumn Ridge

Motioned that the Town authorize the Board of Selectmen to take in fee simple, pursuant to the provisions of General Laws, Chapter 79, or otherwise acquire as a Town way:

Autumn Ridge

A strip of land sixty (60) feet in width beginning on the westerly side of Prospect Street, running westerly a distance of approximately One Thousand Sixty Two (1,062) feet to its terminus at a cul-de-sac as shown on plans recorded in the Hampden County Registry of Deeds at Book of Plans 295 Page 29.

And that no damages be awarded for said taking.

A 2/3rd's Vote is required.

Motion Passed Unanimously as Declared by Town Moderator.

Recorded: Hampden County Registry of Deeds 10-20-2011, Bk 18962, Pg57

Article 13

Citizen Petition – Amend Zoning By-Law

No Motion Made

No Action Taken

Motion to Adjourn

The Annual Town Meeting was adjourned at 8:20 p.m., the business of the Warrant having been completed.

•• **Certificate of Quorum** ••

This is to certify that more than 100 Registered Voters were present at the Special Town Meeting held on September 26, 2011. Voter attendance was recorded as follows:

Precinct 1	19
Precinct 2	33
Precinct 3	50
Precinct 4	<u>32</u>
Total	134

True Record: Attest:

Thomas P. Florence
Town Clerk